

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No. 582/96

Date of Order : 4.9.98

BETWEEN :

N.S.Sivanandam

.. Applicant.

AND

1. Union of India, rep. by
General Manager, S.C.Rly.,
Rail Nilayam, Secunderabad.

2. Chief Personnel Officer,
S.C.Rly., Rail Nilayam,
Secunderabad.

3. D.K.Nayak

.. Respondents.

- - -

Counsel for the Applicant

.. Mr.G.Ramachandra Rao

Counsel for the Respondents

.. Mr.V.Bhimanna

- - -

CORAM :

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)

- - -

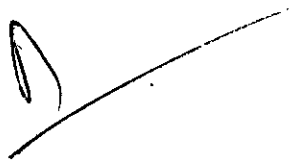
O R D E R

X As per Hon'ble Shri R.Rangarajan : Member (Admn.) X

- - -

Mr.G.Ramachandra Rao, learned counsel for the
applicant and Mr.V.Bhimanna, learned standing counsel
for the respondents.

R



2. The applicant in this OA was a Group-B officer confirmed in Junior Scale Group-A w.e.f. 18.9.91. He was working as a Group-B adhoc officer in senior scale from 31.1.86. The applicant next promotion is to the grade of Junior Administrative grade. A Group-A senior scale officer with 5 years of service is eligible for promotion to Junior Administrative grade on adhoc basis with the approval of the General Manager duly recommended by the Chief Mechanical Engineer. Further regular promotion to Junior Administrative grade is ordered by the Railway Board. The present OA is filed for not promoting him on adhoc basis to Junior Administrative grade on par with his juniors. The applicant was issued with the charge sheet for some lapses by memo dated 2.12.93 and that charge sheet was issued for a major penalty. The enquiry proceedings were pending on the date his Junior Officer was promoted to Junior Administrative Grade on adhoc basis. The applicant contends that his non promotion to Junior Administrative Grade when his juniors were promoted is irregular, unjust even if the disciplinary proceedings were pending against him. Denying him the promotion on grounds of the pending disciplinary proceedings in his opinion is arbitrary and contrary to law.

3. The applicant was considered for promotion on adhoc basis to Junior Administrative Grade by General Manager on 5.1.94, 2.12.95 and 28.5.96. But his results were not published and kept in sealed cover in view of the pending disciplinary proceedings. Finally, the disciplinary proceedings ended with an imposition of penalty of reduction to a lower stage in the time scale for a period of 3 months with cumulative effect as per the order dated 3.12.96. That penalty thus imposed became operative on and from 20.12.96 and that penalty was over by 20.3.97.

AC [Signature]

[Signature]

.. 3 ..

4. Thereafter another 2 DPCs met, one on 5.4.97 and another on 1.5.97. The applicant was declared unfit in both the proceedings as he was not found fit on the basis of the perusal of the Confidential Reports.

5. This OA is filed praying for a direction to the respondents to promote him to Junior Administrative Grade from the date his junior was promoted to the said grade i.e. 16.8.94 and 4.12.95 with all consequential and attendant benefits including seniority and arrears of pay.

6. After the issue of the charge sheet 3 proceedings were there for considering his case for promotion to the post of adhoc Junior Administrative Grade on adhoc basis i.e. on 5.1.94, 2.12.95 and 28.5.96. As the applicant was issued with a major penalty charge sheet on 2.12.95 though his case was considered the same was kept in sealed cover. The charge sheet ended with a penalty. Hence in view of the Apex Court judgement in Union of India Vs. K.V. Janakiraman reported in AIR 1991 SC 2011 the applicant cannot get promotion during the pendency of the disciplinary proceedings. His case can only be kept in^a sealed cover. That was correctly done by the respondents. If the charge sheet ended with the penalty, the sealed cover need not be ^{-ed} open and the applicant cannot be promoted for which the proceedings were kept in a sealed cover even if he^{was} declared as fit. In that eventuality, the sealed cover need not be opened. The above is also stated^{so} in Janakiraman's case. As the charge sheet issued to the applicant ended with the penalty the applicant cannot get promotion even if he has been declared fit in the proceedings dated 5.1.94, 2.12.95 and 28.5.96.

R

D

.. 4 ..

7. After the penalty was over i.e. on 20.3.97 the applicant was eligible for consideration for promotion to the Junior Administrative Grade on adhoc basis. After 20.3.97 two selections were conducted one on 5.4.97 and another on 1.5.97. On both the selections the case of the applicant was considered. But he was not found fit in view of the gradings given to him in the Confidential Reports. In order to ascertain that the proceedings dated 5.4.97 and 1.5.97 rejected his case in accordance with the law, we called for the proceedings. The norms prescribed for promotion to adhoc Junior Administrative Grade is clearly spelt out in the notings dated 4.4.97. The relevant paragraph is re-produced below :-

"As per the norms advised by the Railway Board for adhoc JA Grade promotion, the eligible Officers should have earned atleast 3 'Good' and 2 "Very Good" reports in the last five years with fitness for promotion in his latest ACR. In cases where an officer is rated as 'Average' in a particular year(s) the same can be made good with the higher ratings of "Very Good/ Outstanding", if any, in other years so as to bring his overall performance atleast equivalent to that of 3 'Good' and 2 'Very Good' during the last five years and he can be considered for adhoc JAG provided he is declared 'Fit' in his latest ACR".

8. The applicant did not fulfil the conditions laid down in the recruitment rule, as he was not graded above 'Good' in all the CRs of the five years. We also do not see any violation of rules or instructions for prescribing the above norms. In order to check whether the applicant gradings were correctly noted, we also perused the CRs of the applicant. We find that no error has been committed in the notings dated 4.4.97 and the notings are in accordance with the CRs of the applicant. Hence rejection of his case in the selection held on 5.4.97 cannot be faulted.

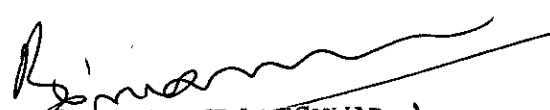



.. 5 ..

9. We also perused the selection proceedings dated 29.4.97 the selection proceedings were held within a month after the first selection was over. Therefore, there can be no other alternate except to reject his case.

10. In view of what is stated above, we find no merit in this OA. Hence the OA is dismissed.

(The selection proceedings and the CRS are perused and returned back)


(B.S. JAI PARAMESHWAR)
Member (Judl.)

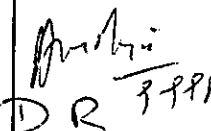
4.9.98


(R. RANGARAJAN)
Member (Admn.)

Dated : 4th September, 1998

(Dictated in Open Court)

sd


D R 3998

DA. 582/96

Copy to:-

1. The General Manager, S.C.Rly, Rail Nilayam, Secunderabad.
2. The Chief Personnel Officer, S.C.Rly., Rail Nilayam, Sec'bad.
3. One copy to Mr. G.Ramachandra Rao, Advocate, CAT., Hyd.
4. One copy to Mr. V.Bhimanna, Addl.CGSC., CAT., Hyd.
5. One copy to D.R.(A), CAT., Hyd.
6. One duplicate copy.

SRE

29/9/98 8

II COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR :
M(J)

DATED: 4/9/98

ORDER/JUDGMENT

M.A/R.A/C.P.NO.

in

C.A.NO. 582/96

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLKR

